



**SPECIAL CALLED  
PLANNING COMMISSION  
November 27, 2006  
Minutes  
7:00p.m.**

Fred Moore, Chairman called the special called meeting to order at 7:00P.M. in the Council Chambers, 2529 J.O. Stephenson Avenue. Roll call was taken and the following members were present: Fred Moore, Doug Rhodes, Pat Ferris, Mitchell Hyre, Richard Anderson and Jeff Miller. Absent: Alan Davis.

City Staff representative, Darryl Simmons, Zoning Administrator was present.

The public was advised that the Planning Commission serves as an Advisory Board that makes recommendations to the Mayor and Council to be heard on December 18, 2006, unless otherwise noted. Chairman Moore instructed anyone giving comments in the public session to please sign in and noted that limitation of 10 minutes per side would be given.

**New Business:**

- (A) Variance Request (ZV2006-19) Consideration to approve a variance request submitted by Randy Pimsler on behalf of Ultima RealEstate Holdings for property owners of 2849 Dallas Street, 2871 Lewis Street and 2891 Lewis Street. Said request to reduce the required minimum floor area for residential units from the required 1,000 square feet for proposed mixed use development. The property will contain 4.61+/- acres and is identified as Land Lot 139, Tax Parcels 63, 26 & 23. Properties are zoned Central Business District (CBD) (Mayor and Council 12-18-06)

Staff, Darryl Simmons, Zoning Administrator presented the application for variance for the subject properties located on the western boundary of Dallas and Lewis Street. The applicant is seeking approval to reduce approximately 19 residential units of the total 58 units (35% of total units) minimum required square footage from 1,000 square feet to 724 square feet.

The proposed mixed-use development includes the following elements:

- 23,3868 square feet (19 units) of retail uses
- 4,672 square feet (4 units) of office use
- 73,956 square feet (58 units) of residential units
  1. One Bedroom – 23 units
  2. Two Bedroom – 28 units
  3. Three Bedroom – 7 units

The proposed design is to preserve the historical structures identified and create a pedestrian friendly linkage to J.O. Stephenson Avenue, Dallas and Lewis Streets. The alignment to J.O. Stephenson Avenue with the project entrance will provide entry though development to Adams Park,

There was a downtown LCI study conducted by the city, which identifies the need for mixed use development within the downtown area as a component to the long range development for this

area. Another component relates to the unit sizes within these types of mixed-use developments to encourage a broader concept of housing accessibility and choices that are in line with smart growth planning initiatives encouraged by ARC (Atlanta Regional Commission).

The square footage reduction being requested for the one bedroom units can add the mixture to this project, which meets the city's long term vision for mixed housing types. However, the building footprints, location and design cannot substantially support the strict definition of a hardship as per our ordinance. The overall site plan is in line with the Central Business District guidelines except for the square footage requirement.

It is staff's conclusion that a hardship was not shown for this property based on the variance standards under Section 1909. Staff recommendation is to **deny** the requested variance for reduction of the required 1,000 square feet minimum floor space per unit.

Mr. Randy Pimsler, applicant, came forward to discuss the submitted application and the request for the reduction of the floor area for some of the units. Mr. Pimsler commented that the request in itself is not a hardship, but because of the mixed-use development gives diversity to the project as to the residential use sizes, which would support the retail component. The request is seeking about 35% of the one-bedroom units to be below the required 1,000 square feet for residential area having approximately 724 square feet of floor space.

It was presented to the commission that the existing historic structure located on the property will remain and be incorporated into the plans for the total overall project. Mr. Pimsler explained that the house would be used for a community center with meeting rooms, an exercise area and provides restrooms for the pool area adjacent to the structure.

The city's LCI study shows that this type of mixed-use project is what the city is trying to accomplish for the downtown area and the project once completed would give the city's its edge in this core area and bring traffic to the Central Business District.

General discussion from the commission reflected concern about how the retail component would be maintained so that a problem in the future could be prevented from the applicant returning seeking more residential space because of the failed market for retail and increasing the density on the residential units. Also discussed was about the development and retail section as sometimes the residential gets developed and retail loses out and the applicant does want to increase the residential units because of the lack of retail market.

Staff read into the record Section 802.7 for the Zoning Code for the Central Business District. Portion 802.7.2 reads **"the non-residential portion of the development shall be completed and operational before the issue of certificates of occupancy for the residential portion....."**

Christopher Baldwin indicated that there would be lease out of the retail spaces and purchase to own for the residential units. A proposed HOA would be created to maintain the residential units as will there would be a management company that would watch over the retail spaces as to maintenance and he indicated that he is agreeable to committing to building out the commercial component before the buildings that are exclusively residential. Mr. Baldwin also commented that there could be some percentage of residential rental units.

Commission member, Pat Ferris, voiced his concern about the rental units and whether or not there was anything in the ordinances that would prohibit the conversion of the retail units to residential units and asked if there could be a limit placed on the number of residential rental units.

Mr. Baldwin commented that there are usually not more than 20-25% of rental units within any project that he has developed and is agreeable to committing to a maximum percentage of rentals. The mixed marketability creates and attracts a range of demographic groups to live in downtown that would be able to afford the price range from \$135,000 and up. The commission could impose a number of residential rental units in their consideration of approval.

There was some further discussion on the existing key historic/estate home on the property. There was concern that it could not be seen from the road and since there are a limited number of existing historic homes throughout Kennesaw the commission wanted to maintain this one and give it some visual presence from the street.

Mr. Pimsler commented that the plan was presented to the Historic Preservation Commission for a Certificate of Appropriateness on November 21, 2006. Dr. Drobney explained that he had looked at the project as a whole, and reviewed it as being in the CBD and explained that his job was to review the plan and make sure it was designed for and meet the criteria for that district, which it does. The HPC made a motion to approve the concept. The project would have to go back to them for consideration of the landscaping, lighting and design layout

Mr. Pimsler commented that this matter was presented to the HPC and design issued will be addressed at site plan review for the project in order to determine that all city development standards are met. It is their intent as stated before to maintain as much historic/architectural value to the home and respect the structure's exterior appearance. Perhaps there could be some relocating of units and give the project a greater access off Lewis Street. It was their plan to integrate this structure with the proposed planned development.

Safety issues arose with regard to Adams Park with the ball fields. Proper landscaping, lighting would be utilized. It was the intent of the developer to give access to the retail uses to the general public even from the park.

Floor opened for public comment.

Mary Whitlock an adjoining property owner came forward and voiced her concerns about the project relative to her property adjacent to the proposed project. She voiced her concerns as to the height and size of the condos on her side and worried about people looking into her home. Ms. Whitlock also voiced her concerns over the loss of some of the mature trees, underground parking, detention, fences and sidewalks.

Staff made a suggestion that perhaps the applicant and property owner could meet work together to address some of her concerns.

Floor closed for public comment.

Review of plans and design with some general discussion on procedures were discussed.

Motion was made by Pat Ferris, seconded by Jeff Miller to deny the request to reduce the required minimum floor area for residential units from the required 1,000 square feet to 724 square feet.

Motion carried. Vote 5-0.

- (B) Variance Request (ZV2006-20) Consideration to approve a variance request submitted by M.C. Edwards for property located at 2689 S. Main Street. Said request to reduce the required cemetery buffer. The property contains .71+/- acres and is identified as Land Lot 167, Tax Parcel 15. Property is zoned Central Business District (CBD) (Mayor and Council 12-18-06)

Staff, Darryl Simmons, Zoning Administrator presented the application for variance for the subject property located on the western boundary of South Main Street. The applicant is seeking approval to waive the required 50-foot undisturbed buffer between land disturbance/development area and the adjoining gravesites on the adjoining property as required per Section 420 of the Development Standards.

Due to the size and location of the parcel, the required buffer would not be possible due to the restraints of the site. The property is surrounded by cemetery sites on two sides. There is no opportunity to acquire additional acreage in order to comply with the requirement. The submitted plan illustrates where the 50-foot buffer would be placed on the site in order to comply with city code; this would eliminate a standard building footprint to be constructed.

This property was rezoned from R-15 residential to Central Business District on August 7, 2006 with the applicant agreeing to the rezoning conditions, which included architectural guidelines and project approval under the CBD standards.

It is staff's conclusion that a hardship was shown for this property based on the variance standards under Section 1909. Staff recommendation is to **approve the requested variance for encroachment into the 50-foot undisturbed cemetery buffer with conditions**: 1) The applicant must provide field verification report by a certified professional of gravesites along the property lines to ensure that there are no gravesites located on the subject property proposed for development; and 2) Tree save areas towards the rear of the property to be established to preserve existing mature trees.

Applicant came forward indicating that staff presented his application and that he could not meet the required buffer and still be in compliance with all development standards per city code and be able to construct his building. He agrees with the conditions/stipulations placed on any approval for variance and indicated that he has proceeded with obtaining a contractor who would professionally do a sonar of the property to locate if any gravesites on his property. He asked that the commission consider his request and grant approval for the reduction.

Floor opened to public comment.

Floor closed to public comment.

There was no one from the public to give testimony in favor of or in opposition to the cemetery buffer variance request.

After a brief discussion about the necessity of the requested variance a motion was made by Doug Rhodes seconded by Richard Anderson to approve the requested variance to waive the required 50-foot undisturbed cemetery buffer per staff's recommendations and conditions as follows: 1) The applicant must provide field verification report by a certified professional of gravesites along the property lines to ensure that there are no gravesites located on the subject property proposed for development; and 2) Tree save areas towards the rear of the property to be established to preserve existing mature trees.

Motion carried. Vote 5-0.

**Adjournment**

There being no further business, motion was made and seconded to adjourn this special called meeting of the City of Kennesaw Planning Commission at 8:00pm. The next regularly scheduled meeting of the Planning Commission is December 11, 2006 at 7:00p.m.

Respectfully submitted,

Diane Wroblewski, Assistant Zoning Administrator